



**TOWN OF UXBRIDGE  
BOARD OF SELECTMEN  
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**Jill R. Myers  
Town Manager**

**MEMORANDUM**

**TO:** Honorable Board of Selectmen

**FROM:** Jill R. Myers, Town Manager

**DATE:** February 23, 2007

**SUBJECT:** Town Manager's Report for the BOS Meeting of February 26, 2007

**TOWN MEETING – PLANNING BOARD ADVERTISEMENTS IN THE T&G**

The Town Planner and Town Clerk brought to my attention this week advertising issues regarding Article 1 of the Special Town Meeting held on January 9, 2007 as well as ads for two proposed subdivisions. The Town Planner/Planning Board requested that the legal ad for the November 8, 2006 hearing be printed in the Worcester Telegram & Gazette on October 25 and November 1, 2006. The first newspaper ran the ad on October 26, a day later than it was suppose to. The second ad did not run at all. The T&G admitted in writing that it was their error. A copy of this admission was forwarded to the Attorney General's office along with all other required material relating to the special town meeting. The Attorney General's Office informed us that we must publish information about the error in the newspaper. After the day of posting, the public has 20 days to object to town meeting action if they choose to argue that the lack of adequate posting affected the outcome of the vote on the article. If there are no objections, the Attorney General's Office then would accept the town meeting action or reject it for reasons not relating to the aforementioned issue regarding the newspaper postings. The Attorney General's Office will be mailing this information, including posting of the newspaper ad, to us on Monday, February 26.

For the subdivisions, prior to knowing of the problem, the Planning Board held a public hearing and recently approved one of the subdivisions. The Planning Board was scheduled to sign the approved plan on 2/21, having filed the decision with the Town Clerk and waiting for the 20 day appeal period to expire. The other subdivision is still under review. The Planning Board requested input from Town Counsel. Attorney Cutler noted that:

“With respect to the approved plan, I recommend that you alert the developer to the problem, but proceed with signing the plan if there is no appeal. With respect to the second plan, I also recommend that you alert the developer to the problem since it is the developer who will have to defend against any appeal of an approval, including any appeal which claims that public notice was insufficient. I would add that an abutter who received mailed notice of the hearing would not be in a good position to argue that he was prejudiced by insufficient publication in the newspaper. Similarly, a person who

actually attended the hearing would have an equally hard time contesting the sufficiency of notice. Nevertheless, the developer may elect to allow the Board to advertise the hearing again and start the hearing process over in order to avoid potential claims. If so, the Board should be sure to get the developer to grant an extension of time for the decision, in writing, and immediately file the extension with the Town Clerk.

In my opinion, there is no liability on the part of the Board for an inadvertent error in the public hearing notice. The likely disposition by a court in the event of an appeal based on that error would be to remand the application back to the Board for new notice and hearing. The appellant, however, would first have to demonstrate that his rights to participate in the hearing had been harmed as a result of the error.”

The Town Clerk had submitted the required post Town Meeting documents and we received notification they have been received by the Attorney General’s office.

#### **TOWN COUNSEL – BILLS AND BUDGET SURVEY**

I am waiting to receive outstanding and corrected bills from K&P. The last bill paid under contention was for services rendered through 11/30/06. I have sent inquiries to Attorney Connolly and Attorney Kopelman. Attorney Kopelman had indicated that he would provide the Town a contract in January responding the BOS request of August 2006; it has not been received.

At the request of the BOS, staff is surveying similar and neighboring towns regarding Town Counsel expenditures. Preliminary information has been received.

#### **TOWN CLERK – ANNUAL STREET LISTING BOOK**

A concern was raised by BOR Boatman regarding the statutory requirements for printing the annual street list book. The Town Clerk noted that MGL Chapter 51, section 6 pertains to this issue and that he intends to meet the deadline. He also contacted Howard Hock of the Secretary of State’s Office who advised that the law states that street listings should be available on June 15. A list may be produced from the State’s Voter Registration Information System (VRIS) in the Town Clerk’s office that would meet statutory requirements. Harry Petrucci also from the Secretary of State’s Office noted that the April 15 date that Ms. Boatman referred to is the “target date” for imputing data entry for the June 15 listing. But again, printing from the VRIS would meet statutory requirements, even if all of the information is not imputed or complete. Mr. Petrucci also noted many, if not most, municipalities do not have all of their census data entry done by April 15 or their street lists books ready by June 15. According to both men, there is no penalty under law or crime committed if these dates or not met. The law was written prior to there being a state VRIS system. Mr. Petrucci will be in Town on 2/26 to discuss Election Day and Election Day preparation issues, as well as the census.

#### **BOARD OF REGISTRAR APPOINTMENT – SECOND VACANCY (R)**

The Republican Town Committee scheduled a meeting for 6:30pm on 2/26 to put forth a slate of candidates to fill the seat vacated by Mr. Potaski.

#### **PLANNING BOARD APPOINTMENT – FILL SUSAN BLOOMBERG’S SEAT IN APRIL**

Five candidates have expressed interest in the appointment. I have begun meetings, and hope to make a selection soon in order for the person to attend meetings informally until Ms.

Bloomberg's departure date. The Town Planner had suggested an alternate be appointed, but after further review, local acceptance of MGL is needed.

#### **AFFORDABLE HOUSING – SUMMERFIELD AND JUNIPER HILLS**

I had arranged a meeting with an affordable housing consultant used by other Towns - Maureen O'Hagan from MCO ([www.mcohousingservices.com](http://www.mcohousingservices.com)) to discuss requirements for the Town relating to lotteries and marketing plans for Summerfield (services paid by developers) and if there was a remedy to the Juniper Hills project to have the affordable units added to the State Affordable Housing Inventory. Representatives from Juniper Hills were present. While there are nuances to the Juniper Hills project approval and we can not mitigate the recent sale of a unit, the following steps would need to be taken for future sales:

1. The Town needs to submit a LIP Action Unit Application to DHCD for approval.
2. Once DHCD approval is received the Ready Buyer List application is marketed for 60 days before the lottery can be held. The marketing usually includes ad placement in local papers, cable, minority outreach, Public Information Meeting, etc.
3. Once the lottery is held the Ready Buyer List is determined and the applicants notified of their ranking
4. The list is used when a unit comes up for resale.

The Town is credited the affordable unit when a deed rider is issued by DHCD before unit closing. We have an e-version of the LIP Universal Deed Rider.

I met with the Northwind/Summerfield developers in follow-up with the Town Meeting approval, along with ZBA Chairman Esposito in preparation for the special permit Summerfield notes that they will perform much of the affordable housing work, but there is still a gap as we have no volunteers to serve on the Affordable Housing Committee.

#### **HAZEL STREET LANDFILL:**

DEP issued a Notice of Noncompliance (NON) on January 24, 2007 relating to a monitoring event on November 20, 2006. The NON noted that the town failed to report 1,4-dioxane in the last round of groundwater results. This was an inadvertent omission on the laboratory's part and one that BETA did not notice either. The lab (ESS) had tested for that compound, but did not report the findings. They have since provided us with updated certificates of analysis including the 1,4-dioxane results. BETA will ensure that it is included.

#### **LETTER TO THE INSPECTOR GENERAL'S OFFICE REGARDING CABLE TV THIRD PARTY ADMINISTRATION**

The letter was issued to the IG's office, and we have not received a response yet.

#### **MMMA MEETING WITH TOWN MANAGER'S AND SCHOOL SUPERINTENDENTS – RE BUDGETS**

The Superintendent and I attended a meeting hosted by the Municipal Managers Association and invited School Superintendents. The discussion focused on the components of the school budget, funding challenges for special education, and balancing general government needs – revenue and cost sharing agreements. It was very informative and we have information on successful models.

#### **REGIONAL ANIMAL CONTROL OFFICER (ACO)**

Uxbridge will serve as the lead agency for the regional ACO services. We have worked out a budget and Uxbridge will bill the Towns of Douglas and Mendon for services. The FY08 budget

request for Uxbridge will show the complete budget, similar to the Veteran's Services agreements, but our costs/budget allocation has been reduced by the shared services.

#### **4-TOWN BUDGET REQUEST:**

On behalf of the 4-town group, I submitted a State budget line item request to the area legislators. A total of \$45,000 has been expended on the project with local contributions and grant funding. The goal is to develop a regional economic model which can be used throughout the Commonwealth. The specific items from the funding request (\$100,000) are as follows:

- To Develop a Regional Model for an Infrastructure Master Plan.
  - Evaluation of existing infrastructure including water, sewer, roadways, fiber optics, etc.
  - Evaluate physical constraints within the target area and the use of best management practices
  - Impact to, and integration of natural resources
  - Maximizing on-site recharge
  - Actual formulation of a master plan
- To Coordinate Cooperation among the 4 Towns to establish zoning uniformity and to examine the potential for a regional zoning overlay district to encourage appropriate economic development in the region.
- To establish a legal cooperative framework among the 4 Towns, to include revenue projections and revenue sharing, as well as the development of a regional marketing plan.

It is a serious concern of the 4 Towns that the consequences of not funding this important project may result in incompatible land use issues including the following:

- Further Aggravation of Traffic Congestion
- Negative Impacts on the Environment
- Inadequate and Ineffective Infrastructure development
- Reduced Revenues for the Towns and the Commonwealth

#### **AMBULANCE BID**

The Town received one bid for the 2007 ambulance. The bid price is \$109,958.00, with the trade in and the delivery time is 180-210 days from contract. The Fire Chief reviewed the bid response and recommended the award. Funding for the purchase was approved at the 2006 Spring Annual Town Meeting in the amount of \$110,000 to replace the 2004 vehicle.

#### **GRIFF LEGAL CASE (1 OF 2)**

The Appeals Court has dismissed Griff's appeal and has upheld Judge Cornetta's contempt order in favor of the Town – which stated that the ruling of the court that the use was not permitted in an industrial zone. The decision was forwarded to the BOS under a separate cover.